

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Phillip Lee Spears,)	
)	
Plaintiff,)	
)	Civil Action No. 6:13-cv-00555-JMC
v.)	
)	ORDER
Ernest Mims, Edward Lucky, Adrienne)	
Scarborough, Geraldine Johnson,)	
Darnell Pugh, C. Demery, Ms. Hopkins,)	
Ms. Winterspoon, Mr. Shepard,)	
Jacqueline Strong, Susan Breon,)	
)	
Defendants.)	
)	
)	

This matter is before the court for review of the magistrate judge’s Report and Recommendation (“Report”) (ECF No. 79), filed June 12, 2014, recommending that the above captioned case be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Petitioner, proceeding *pro se*, brought this action seeking relief pursuant to 42 U.S.C. § 1983 after he was allegedly sprayed with chemical munitions and thereafter denied medical attention in a timely manner. The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The magistrate judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and

the court may accept, reject, or modify, in whole or in part, the magistrate judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report. (ECF No. 34 at 10.) Plaintiff, however, did not file any objections to the Report.

In the absence of objections to the magistrate judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough and careful review of the record, the court finds that the magistrate judge's Report and Recommendation provides an accurate summary of the facts and law in the instant matter. The court **ADOPTS** the magistrate judge's Report (ECF No. 34). It is therefore **ORDERED** that the above captioned case is **DISMISSED** for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

July 24, 2014
Columbia, South Carolina